

Detailed Action

The 102 (b) rejection of claims 18, 19, 20, 21, 22, 24, 25 over Hcaplus 1976:30139, the 102 (b) rejection of claim 15 over Hcaplus 1974:425336 and the 102 (b) rejection of claims 18, 19, 20, 21, 22, 24, 25 and 27 over Kleb are rendered moot and withdrawn in light of applicant's amendments filed 12/3/2009.

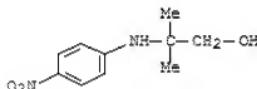
(old rejections)

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

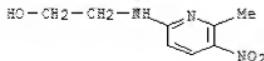
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 15 is rejected under 35 U.S.C. 102(b) as being anticipated by Hcaplus 1976:30139. Hcaplus 1976:30139 discloses the instant compound,

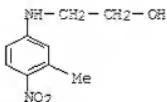


3. Claim 15 is rejected under 35 U.S.C. 102(b) as being anticipated by Hcaplus 1970:487744. Hcaplus 1970:487744 discloses the instant compound,

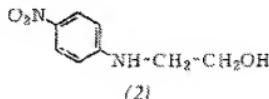


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4. Claim 15 is rejected under 35 U.S.C. 102(b) as being anticipated by Hcaplus 1974:425336. Hcaplus 1974:425336 discloses the instant compound,



5. Claim 15 is rejected under 35 U.S.C. 102(b) as being anticipated by Kleb. Kleb



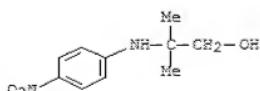
discloses the instant compound of formula 2,

(new rejections)

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 15, 18, 19, 20, 21, 22, 24, 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hcaplus 1976:30139 and further in view of Patani et. al.



Hcaplus 1976:30139 discloses the compound,

The difference between the prior art compound and the instant compound and composition containing them are the R6 and R8 groups, which in the prior art are hydrogens, but in the instant claims are both methyl groups.

The instant compound are bioisosteres of each other. Bioisosteres are compounds that differ by an atom or radicals that share similar physiochemical properties and consequently two compounds that are bioisosteres of one another have similar biological activity. A fluorine atom, a methyl group, and an amino group are bioisosteric replacements for hydrogen. (See Patani, see page 3152). It would have been obvious to one of ordinary skill in the art to synthesize bioisosteres of this class of compounds. Accordingly, the compounds and compositions containing them are deemed unpatentable therefrom in the absence of a showing of unexpected results for the claimed compounds over those of the prior art compounds.

Response to applicant's remarks

The applicant traverses the rejection of claim 15 over the above 102 (b) references alleging that these references only disclose the compounds with no particular use for these compounds. The applicants also allege that these references relate to no pharmaceutical compositions. However, these compounds have the exact chemical structure of the compound of formula I contained in the composition in claim 15, and as a result, are expected to have the same chemical properties of these compounds. The compounds themselves are the active ingredients - the portion of the pharmaceutical composition that is not the active ingredient - does not lend patentable weight to the invention. Therefore, these rejections are maintained.

Claims 23, 29, 30, and 31 are objected to because they are based on a rejected claim.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Binta M. Robinson whose telephone number is (571) 272-0692. The examiner can normally be reached on M-F (9:30-6:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Janet Andres can be reached on 571-272-0670.

A facsimile center has been established. The hours of operation are Monday through Friday, 8:45 AM to 4:45 PM. The telecopier numbers for accessing the facsimile machine are (703)308-4242, (703)305-3592, and (703)305-3014.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571)272-1600.

/Binta M Robinson/
Examiner, Art Unit 1625
/Janet L. Andres/

Supervisory Patent Examiner, Art Unit 1625